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Montana State
Library
Commission. Law
Revision Committee
Report of the
law revision
committee

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TED SCHWINDEN, GOVERNOR

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Report of the law revision committee.



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TO: Montana State Library Commission
Montana Library Association

STATE LIBRARY COMMISSION

AUG 11 1988

FROM: Law Revision Committee

MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

DATE: April 7, 1988

REPORT OF THE LAW REVISION COMMITTEE

The Law Revision Committee began its work in April 1987. It concludes its work in April 1988 with this report, meeting the mandate from the Commission in the 1985 Blacktail and the 1987 Bear Creek Mission Statements. Number 7 of the Blacktail Statements reads, "In an effort to modernize and make federations and public libraries more effective, the Commission will hold public hearings with the aim of proposing significant changes in Montana library laws to the 1989 Legislature." Number 4 of the Bear Creek Statement says, "We affirm the efforts to modernize and make federations and public libraries more effective and will hold public hearings with the aim of proposing significant changes in Montana library laws to the 1989 Legislature."

The committee made a comprehensive study of all parts of the laws directly relating to libraries. It considered laws which are not specific to libraries but which might have implications for libraries. Also there were some topics not currently in the statutes which had committee discussion.

The process of the review included:

1. Public meetings in May and June of 1987 to listen to public discussion of library laws.
2. Six working meetings and a two-day retreat.
3. Consideration of model legislation and the laws of other states.
4. Circulation of components and two drafts of a federation proposal and consideration of all responses. Rationale and comparison papers were issued to assist others in study of the federation proposal

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5. Preparation of a draft report on the committee's work and consideration of all responses.
6. Eight public meetings held throughout the state in March 1988 for discussion of the report and draft proposals for revision of the Federation Law and the State Library Commission Authority.

The Committee recommendations are:

1. The following were considered and determined not to need revision at this time:
 - MCA 22-1-1101 - Montana Library Records Confidentiality Act
 - MCA 22-1-101 - Establishment of the State Library Commission
 - MCA 90-15-101 - Natural Resource Information System
 - MCA 22-1-301 - Public Library Laws
 - MCA 7-11-1101 - Multijurisdictional Service Districts
 - MCA 22-1-601 - Interstate Library Compact
 - Laws relating to distribution of various public documents at state and local levels (not State Documents Distribution Center)
 - Laws relating to school libraries
 - Laws relating to state agency libraries
2. The committee considered but does not propose to develop legislation on:
 - Intellectual Freedom
 - The relationship of the state library and libraries in other state agencies
 - Criminal penalties on destruction or theft of library property or penalties on overdue books
3. It is recommended the library community be made aware MCA 45-6-101 on criminal mischief could be used for destruction or theft of library property or for failure to return overdue books to the library.
4. It is recommended there be better knowledge of MCA 22-1-1101, the Montana Library Records Confidentiality Act.
5. It is recommended MCA 22-1-211, the State Documents Distribution Center, be revised in two ways: the addition of contracted reports to the definition of documents and deletion of the language prohibiting the State Library from publishing lists of documents.
6. It is recommended MCA 22-1-401 on Library Systems and Federations and MCA 22-1-103 on the authority of the Commission be substantially revised. The proposed drafts are attached to these reports.

7. It is recommended the Information Access Bill, previously introduced in 1987 as HB603 on State Aid for Libraries, be the primary focus for legislative effort by the library community in the 1989 Legislative Session.
8. It is recommended the library community have vigorous debate on the proposed drafts of federation and commission authority at the Montana Library Association Conference, Helena, Montana, April 27-30, 1988, to determine if there is opposition or support for the proposed changes.
9. If it appears the library community will support the proposals with a nearly unanimous voice, the legislation should be drafted and introduced. If there is substantial opposition or if a minority is so vocal as to make it appear to the Legislature the library community is divided, the proposals should not be introduced.

The Committee thanks the Commission and all who participated in the Committee's activities, especially the area meetings. A special thank you is made to the libraries and other agencies who hosted the meetings.

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THIRD DRAFT
REVISION OF THE LIBRARY FEDERATION LAW
PREPARED BY LAW REVISION COMMITTEE

1 22-1-4-1 It is the policy of the Legislature to encourage the most efficient
2 delivery of library services to the people of Montana. To that end, the
3 state shall be divided into regions within which all libraries desiring to
4 participate in the distribution of such funding to libraries as may be
5 available from time to time shall organize into library federations to
6 share resources, services and information.

7 22-1-402 A library federation is a combination of libraries within a
8 federation area designated by the State Library Commission. Any other
9 library or town, city or county within the federation area may participate
10 in such a federation.

11 22-1-403 Libraries may agree by contract to form a federation by action
12 of their respective governing bodies. When a library federation shall have
13 been established, the governing body of any entity maintaining a library
14 may agree to participate in the library federation and shall be entitled
15 to the benefits of the library federation, and property within the federa-
16 tion boundaries shall be subject to taxation for library federation purposes.
17 The library must be willing to participate in the appropriate services and
18 programs as determined by the federation. The participating entities shall
19 retain autonomy over their respective libraries. A participating entity
20 may withdraw from a federation according to terms of withdrawal provided
21 for in the contract by action of its governing body.

22 22-1-404 In a library federation there shall be a governing board of not
23 less than 5 or more than 15 members to be selected by the governing auth-
24 orities of the participating library. The contract forming the federation
25 shall ensure fair and balanced representation of the participating libraries
26 on the governing board.

27 22-1-405 The governing board of the federation shall:

- 28 1. Have responsibility for the federation contract and amendments to
29 the contract.
- 30 2. Adopt bylaws and policies for the transaction of its business and
31 for the government of the federation not inconsistent with law.
- 32 3. Determine the administrative structure and provide for federation
33 operations including federation staff.
- 34 4. Develop the plan of service and have responsibility for the imple-
35 mentation of the plan of service once it approved by the State
36 Library Commission.
- 37 5. Exercise fiscal control over federation funds and report to the
38 participating libraries and the State Library Commission.

39 6. Have the power to contract with other federations and entities,
40 including interstate contracts.

41 22-1-406 The expense of providing library services for the federation shall
42 be based on funds received from the state or participating libraries as shall
43 be agreed upon in the contract. The governing board may accept public
44 and private funds from other sources. The funds of the federation shall
45 be maintained as a separate account. Participating libraries shall
46 transfer to the account all money collected for the federation in their
47 respective jurisdiction.

48 Only those libraries whose funding authorities shall have either maintained
49 or increased their fiscal effort for libraries and learning resources shall
50 be eligible to participate in federations. If a library whose funding
51 authority has experienced extenuating circumstances which have prevented
52 maintenance of effort, that library should document such circumstances in
53 the annual program. Libraries which have been discriminated against in the
54 allocation of funds shall not be eligible to participate in federations.
55 Federation funds shall not supplant local funds for library service.

56 22-1-407(1) Any disagreement among participants in a library federation
57 regarding the apportionment of funds or grants received from the State
58 Library Commission shall be resolved by the State Library Commission.

59 22-1-407(2) Control over the budgets and administrative policies of parti-
60 cipating libraries shall remain in their boards of trustees as provided in
61 22-1-309 or in their governing body.

62 22-1-412 It is the purpose of 22-1-412 and 22-1-413 to establish a program
63 whereby state funds may be appropriated to the Montana State Library Com-
64 mission to provide the benefits of quality basic library service to all
65 residents of Montana by developing and strengthening local libraries
66 through library federations as defined in 22-1-402.

67 22-1-413 The Montana State Library Commission shall receive and administer
68 the appropriation for funding to library federations. The Commission shall
69 allocate such appropriation among such types of grant programs and shall
70 allocate funds among federations according to such distribution as it shall
71 establish from time to time by rules adopted pursuant to 22-1-103. Feder-
72 ations receiving funds from the Commission shall report semiannually to
73 the Commission concerning the progress of the various projects for which
74 funding was received, which reports shall contain an accounting for all
75 funds received.

This draft of a proposed federation law would make these major changes from the current law.

1. All libraries can be members of federations. The third draft changes lines 62 to 66 in a way that would affect the current use of coal severance tax revenue for public libraries. Other libraries could participate in federations supported by coal severance taxes.

2. Boards are governing rather than advisory.
3. Montana has library federations, not library networks and library systems.
4. Decisions about headquarters libraries and federation coordinators are left to federation governing boards rather than written into the law.
5. The authorities and duties of the governing board are specified in the law, making clear the role of the board.



SECOND DRAFT OF REVISION OF THE STATE LIBRARY COMMISSION AUTHORITY

The Law Revision Committee proposes to revise MCA 22-1-103, State Library Commission Authority, as follows:

The State Library Commission shall have the power to:

- (1) Give assistance and advice to libraries in the state and to counties, cities, towns or regions in the state which may propose to establish libraries, as to the best means of establishing and improving such libraries.
- (2) Serve as a resource for libraries and promote adequate library services to provide citizens of the state with equal access to information.
- (3) Coordinate statewide, long-range planning for library development.
- (4) Coordinate, promote and be responsible for the development of library federations, provide for the administration of funding to library federations as authorized in 22-1-413 and designate areas for the establishment of federations.
- (5) Coordinate and promote interstate, national and international efforts for library cooperation and resource sharing among all types of libraries when statewide library services are affected.
- (6) Serve as the agency of the state to accept and administer any state, federal or private funds or property appropriated for or granted to the Commission for library service or to foster libraries in the state and establish regulations under which funds shall be disbursed.
- (7) Act as a state board of professional standards and library examiners and develop standards for public libraries and adopt rules for the certification of librarians.
- (8) Advise the governor and legislature on the present status of library service in the state and on new programs or legislation necessary for effective library service to the people of this state.
- (9) Furnish by contract or otherwise library assistance and information to state officials and state departments.
- (10) Plan and coordinate the provision of library services to groups with special needs, including, but not

limited to, state institutional residents, the blind and the physically or mentally handicapped, and library services not generally available in other libraries in the state.

- (11) Maintain, operate and formulate general policies for the State Library.
- (12) Employ as its executive officer a librarian who is a graduate of an accredited library school and is not a member of the Commission and whose position shall be exempted from the state classification system. The State Librarian shall administer the state library and shall serve at the pleasure of the Commission. The Commission shall fix the compensation of the State Librarian.
- (13) Establish and operate a State Publications Library Distribution Center and the Natural Resource Information System.
- (14) Collect, compile and publish annual statistics and information concerning the operation of libraries in the state.
- (15) The commission can enter into contracts and agreements with any person or entity
 - (a) to provide, extend, improve or coordinate library services, or
 - (b) to demonstrate appropriate programs of of library service.
- (16) Adopt such rules as are necessary for the carrying out of any function imposed on it by law and make such rules as are necessary for its government.

